IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1402 of 1996
For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS
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1.   Whether Reporters of Local Papers may be allowed
        to see the judgements?

2.   To be referred to the Reporter or not?

3.   Whether Their Lordships wish to see the fair copy
        of the judgement?

4.   Whether this case involves a substantial question
        of law as to the interpretation of the Constitution
        of India, 1950 of any Order made thereunder?

5.   Whether it is to be circulated to the Civil Judge?

RANJITBHAI AMARSING VASAVA
Versus
DISTRICT MAGISTRATE

Appearance:
     MR ADIL MEHTA for Petitioner
     SERVED for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE K.R.VYAS
Date of decision: 03/07/96
ORAL JUDGEMENT
     Petitioner Ranjitbhai Amarsinh Vasava is detained
in pursuance of the order dated 29.7.1995 passed under
section 3(1) of the Prevention of Anti Social Activities
act, 1985 (hereinafter referred to as the "PASA Act") by
the District Magistrate, Bharuch, has filed this petition
under Article 226 of the Constitution of India and has
challenged the legality and validity of the said order.

 In the grounds of detention supplied to the
detenu, the detaining authority has placed reliance on
six criminal cases filed under various provisions of IPC
as well as Arms Act and Bombay Police Act, which are
pending in the concerned court and the statements of five
witnesses for the allenged incident dated 30.4.95,
3.5.95, 8.5.95, 1.5.95 and 13.5.1995, wherein the details
are given about the anti social and naferious activities
of the detenu. After considering these materials, the

detaining authority has recorded the finding that the detenu is a dangerous person within the meaning of section 2(c) of the PASA Act and with a view to preventing the detenu from acting in any manner prejudicial to the maintenance of public order it was necessary to pass the order of detention against the detenu and, therefore, the impugned order is passed, which is under challenge in the present petition.

This petition is required to be allowed only on the first contention and, therefore, it is not necessary to refer and deal with other contentions raised in the petition. Mr. Mehta learned advocate submitted that out of six cases, registered against the detenu in CR no. 112/1995, even though the detenu was released on bail, the detaining authority has not supplied the bail application and the order of bail. Thus, the detenu is denied an opportunity of making an effective representation guaranteed under Article 22(5) of the Constitution of India, and, therefore, the order of detention is vitiated. In support of his contention, a reliance is placed on the decision of the Supreme Court, in the case of M Ahmedkuttyvs Union of India and Anr., reported in (1990)2 SCC p. 1. The Supreme Court has held that the bail application and the bail order constitutes a vital material and non-consideration of by the detaining authority or non-supplying the of copies thereof, to detenu would be violative of Article 22(5) of the Constitution of India and continued detention will be illegal.

In the instant case also, it is undisputed fact that the detaining authority has not supplied the bail application and the bail order passed by the competent court releasing the detenu on bail with respect to the offence being CR No. 112/1995 dated 30.5.1995. Mr. Mehta has produced the certified copy of the said application as well as the bail order before this Court. On perusing the same, it clearly transpires that the detenu has been granted bail with respect to the said offence. In view of this factual position, since the detenu is not supplied with the bail application and the bail order passed by the competent court, the detenu is denied an oppotunity of making an effective representaqtion guaranteed under Article 22(5) of the Constitution of India and, therefore, the continued detention is vitiated.

In the result, this petition is allowed. The impugned order of detention is quashed and set aside. The detenu Ranjit Amarsing Vasava is directed to be set

at liberty forthwith, if his detention is not required
for any other purpose. Rule is made absolute accordingly
with no order as to costs.

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